REMARKS

1. Examiner's Interview

The undersigned attorney appreciates the telephonic interview provided by Examiner Wiest on January 14, 2010 to discuss the issues noted in the appended email, which was sent to the Examiner in advance of the interview.

No agreement was reached regarding ***claims 1-6, 8-16, 18-21, 58, and 60-71***. Here, it is the undersigned attorney's understanding that the Examiner is of the view that the valve of U.S. Patent 5,643,195 to *Drevet et al.* is so insensitive to pressure at the downstream side of the valve that it effectively meets the recitations of claims 1 and 58 that the piston's location is independent of downstream pressure. (As stated in the Examiner's January 20, 2010 Interview Summary, "[t]he Examiner took the position that Drevet's piston is only affected by upstream pressure because it is disposed entirely on the upstream side once in the actuated position.")

However, it was the undersigned attorney's understanding that at least at the time of the close of the interview, the Examiner was of the belief that ***claims 72-75*** were allowable: upon reconsideration, the Examiner agreed that he could not see how an artisan having no knowledge of our claimed invention would, after review of the cited references, conceive the invention of claims 72-75. Further, the Examiner could not explain how one would arrive at the invention of claims 72-75 on the basis of the cited references (in particular, how one would adapt U.S. Patent 5,643,195 to *Drevet et al.* and U.S. Patent 6,565,525 to *Burbank et al.* to achieve a non-manually actuated rotary valve whose actuation is independent of downstream pressure. It is unclear from the Examiner's January 20, 2010 Interview Summary whether the Examiner is still of this view.

2. The Amendments, the Support Therefor, and Basis for Entry

No claims have been canceled, six new claims (78-83) have been added, and no claims have been amended to leave claims 1-6, 8-16, 18-21, 58, 60-75, and 78-83 in the application. No fees are due for the new claims because they do not exceed the amount previously paid for. No new matter has been added by the new claims, which all find support in (for example) FIG. 1 and the final paragraph of page 8.

3. Rejection of Claims 1, 2, 5, 6, 8-15, 17-21, 58, 60, 62, and 64-71 under 35 USC §103(a) in view of U.S. Patent 5,643,195 to *Drevet et al.* and U.S. Patent 6,565,525 to *Burbank et al.*

Before discussing the rejections, it is initially useful to review the cited references.

U.S. Patent 5,643,195 to *Drevet* shows a shunt in FIG. 1 (reproduced below) including an inlet port 3 opening onto a fluid passageway 11, with the fluid passageway 11 extending between an upstream side 6 and a downstream side 13, and with the downstream side 13 opening onto an outlet 5 (column 4 lines 46-63). A valve 14 having a piston head is situated between the upstream side 6 and the downstream side 13 (column 4 line 64-column 5 line 1). The piston head is biased to close the fluid passageway 11 by a deformable diaphragm 7 on which the piston 14 rides (column 4 lines 50-52 and 63-65), with one side 12 of the diaphragm 7 being a closed chamber at ambient pressure (column 4 lines 54-56). The piston head is also biased by a leaf spring 17 bearing against a tail end 19 of the piston, wherein the location of the leaf spring 17 (and thus its pressure on the piston) is adjustable via a screw 18 (column 5 lines 10-17). As fluid flows into the upstream side 6 via inlet port 3, if the pressure sufficiently rises in the upstream side 6 to urge the diaphragm 7 and piston 14 downwardly against the spring 17 (and counteract the pressure at the downstream side 13 on the face of the piston 14 situated within the fluid passageway 11), the piston 14 will open the fluid passageway 11 and allow flow to the downstream side 13 and outlet 5 (column 5 line 24 onward).

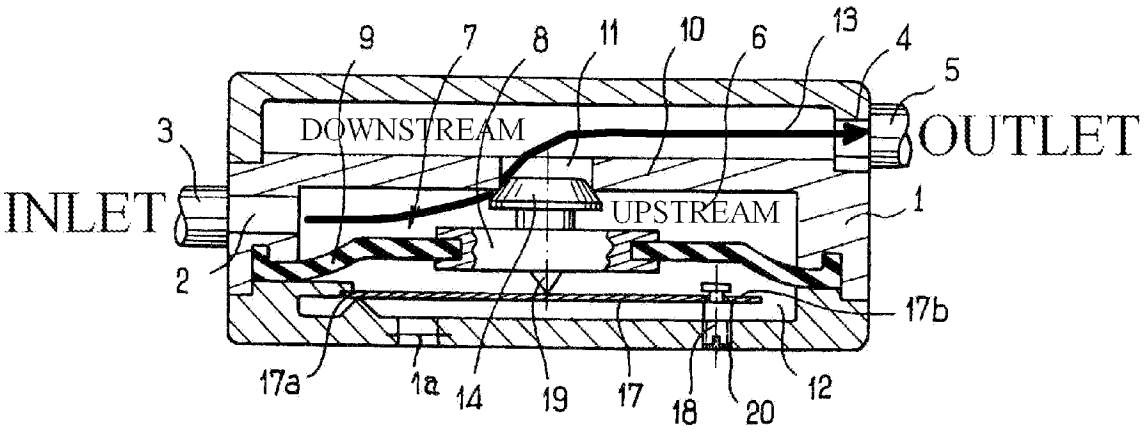

FIG_1

As noted at column 5 line 24 onward (particularly line 39 onward), the tension of the spring 17, elasticity of the diaphragm 9, and the piston configuration are such that a constant 10 cubic cm per hour of flow occurs across the shunt's range of operation (i.e., across a range of patient positions from prone to standing):

	Pressure:		Pressure:
Standing:	0 mm H2O at Inlet 6	Prone:	50 mm H2O at Inlet 6
	-300 mm H2O at Outlet 13		0 mm H2O at Outlet 13
	300 mm H2O Difference		50 mm H2O Difference

(See also column 6 lines 13-17.)

U.S. Patent 6,565,525 to *Burbank et al.* illustrates a valve port arrangement for use in hemodialysis, wherein blood is taken ("accessed") from a patient at the same time it is also returned. The valve port arrangement is intended to halt all blood flow in the event needles leading to one or more of the blood access port and/or the blood return port are dislodged from the patient (column 2 lines 9-28, 57-67). Looking to FIGS. 4-6, connector 108 is intended to be connected to a vein or the like for access (or return) (column 7 lines 12-17), and connector 110 is then intended to be connected to a vein or the like for return (or access) (column 7 lines 18-19). The device is ordinarily in the state shown in FIG. 4, wherein flow between connector 108 and port 104 is blocked by the interruption of passages 112a and 112c by pistons 116 and 114 (note that piston 114 is mislabeled in FIG. 4). Similarly, flow between connector 110 and port 106 is blocked by the interruption of

similar (but unshown) passages by the pistons. When the pistons 114 and 116 are lowered as in FIG. 6 by introduction of needle 120 into port 104 and introduction of needle 122 into port 106, passages 112b and 112d align with passages 112a and 112c to allow flow between connector 108 and port 104, and (unshown) passages are similarly opened between connector 110 and port 106 (column 7 line 45 onward). Thus, dislodgement of either needle 120/122 prevents access flow between connector 108 and port 104, and between connector 110 and port 106 (column 8 lines 13-19).

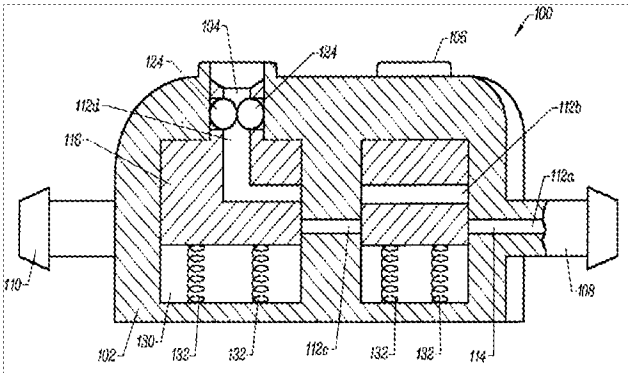

FIG. 4

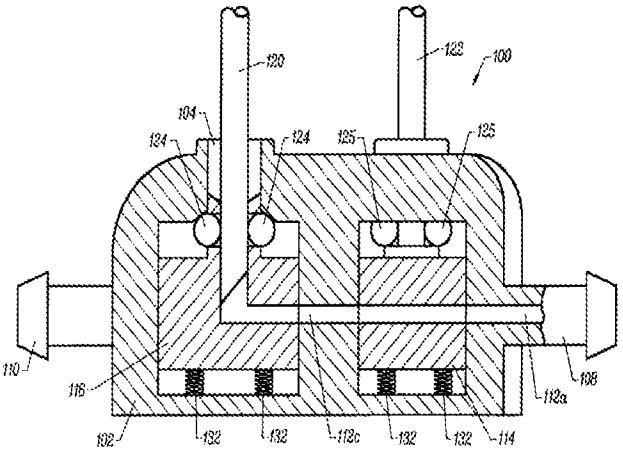

FIG. 6

As noted previously, ***independent claims 1 and 58*** recite that the location / position of the piston is independent of the pressure on the downstream side of the valve, a feature which is both novel and unobvious in view of the references of record. In *Drevet et al.*, a major portion of the head of the piston 14 is exposed to the pressure (generally suction) in the downstream side 13 (see portion shown in fluid passageway 11 in FIG. 1 above – above the end of the lead line extending from reference number 11). As a result, the piston will plainly be affected by this pressure, and it is clearly incorrect to state otherwise. In practice, the suction from the drain (the fluid resorption site) – which is generally in the peritoneal (abdominal) cavity – is referred to as "siphoning," and as *Drevet* notes, it can be significant (with no suction when the patient is prone, with head and abdomen at approximately the same height, and 300 mm H2O of suction when the patient is standing, with the patient's head being at maximum height above the abdomen). *Drevet* seeks to maintain an

approximately constant 10 cubic cm per hour flow as the shunt ranges from 300 mm of suction / siphoning from the downstream side to 50 mm of positive pressure from the upstream side. *Drevet's operation cannot be independent of downstream pressure because the suction / siphoning from the downstream side 13 – which closes the valve by pulling the piston 14 toward the downstream side (upwardly toward 11 in FIG. 1) – is needed to offset the positive pressure from the upstream side 6, which pushes on diaphragm 7 to open the valve.* This is how *Drevet* "balances" the piston to attain a roughly constant flow rate. Consider: if *Drevet*'s operation truly is independent of downstream suction, is *Drevet* really going to attain its stated constant flow rate across the 0-50 mm H2O pressure variation experienced at the upstream side, as described at column 5 line 39 onward? (And if so, why do these passages even mention downstream pressure?) With respect, any assertion that *Drevet* operates independently of downstream pressure is clearly erroneous.

Turning then to *Burbank et al.*, the locations of pistons 114 and 116 are independent of the pressures on their downstream sides, but it does not seem possible to incorporate this feature into *Drevet et al.* and still have the pistons' locations be independent of downstream pressure: even if one did replace *Drevet*'s piston 14 with (for example) *Burbank*'s piston 116 (as by replacing *Drevet*'s piston 14 with a "block-like" piston such as 116 of *Burbank*, with a passage in the piston such as *Burbank*'s passage112d wherein the passage "opens" when the piston is sufficiently deflected in *Drevet*'s fluid passageway 11), the piston would still be subject to the effects of downstream pressure since the downstream side of the piston is, like in *Drevet*, exposed to the downstream suction pressure. The inability to combine *Burbank* with *Drevet* to attain the claimed invention is particularly true in view of the fact that *Burbank et al.* needs *manual actuation* – insertion of the needles – to attain piston motion which is independent from downstream pressure, and such a manual activation feature cannot reasonably be provided in a bodily fluid shunt such as *Drevet et al.*'s and still yield a practically usable shunt (since as a practical matter, a user/patient can hardly be expected to reliably manually actuate their shunt). Since obviousness requires a reasonable expectation of success (MPEP 2143.02), and here it does not seem possible for an ordinarily skilled artisan to devise a way in which *Drevet et al.* can be modified to have its piston location be independent of the pressure on the downstream side of the valve, the invention of claim 1 cannot

properly be deemed obvious. If the rejections are maintained, the Office is respectfully requested to more specifically explain for the record how *Drevet* and *Burbank* are combined to attain the claimed invention: how is *Drevet* modified to attain independence from downstream pressure?

In summary, consider the obviousness analysis mandated by MPEP 2142:

> To reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant"s disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

If this process is followed, with the claimed invention being placed out of mind and *Drevet* and *Burbank* being objectively considered from the standpoint of an ordinary artisan, it simply cannot fairly be said that the ordinary artisan would contemplate or consider the claimed invention. How would one be able to modify *Drevet* to have the piston position independent of the pressure in the downstream passage side? Moreover, even if one could devise a way for this to work, why would one do so, given that *Drevet requires* dependence on downstream pressure in order to attain the desired operation at a constant flow rate?[1] (See MPEP 2143.01, subsection entitled "The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose.") Thus, even if it was possible to modify *Drevet* to meet the claims, an ordinary artisan would not contemplate doing so because this would be contrary to *Drevet*'s purposes. Kindly withdraw the rejections.

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[1] Page 8 of the Office Action alleges that "Drevet clearly cites the need to eliminate the effect of downstream pressure in pressure-based flow control devices." This is incorrect: *Drevet* clearly wants fluid pressure to act on the piston, since this is required for proper operation. What *Drevet* in fact seeks is to have consistent flow despite the fact that the variation in fluid pressure on the upstream and downstream sides may vary significantly, e.g., when the patient is laying down (at which time upstream pressure is dominant), vs. sitting, vs. standing (at which time downstream pressure is dominant); see, e.g., column 2 lines 39-45, column 3 lines 3-13, column 5 line 48 onward. *Drevet* therefore *needs* a pressure difference between the opposing sides of its piston in order to operate, and it simply takes account of the differences to provide the desired operation.

4. Rejection of Claims 72-75 under 35 USC §103(a) in view of U.S. Patent 5,643,195 to *Drevet et al.*, U.S. Patent 6,565,525 to *Burbank et al.*, and U.S. Patent 6,379,340 to *Zinger*

As noted in the foregoing Section 1 of this Response, it was the undersigned attorney's understanding from the January 14, 2010 telephonic interview that claims 72-75 were regarded as allowable. However, since the January 20 Interview Summary is unclear on this point, the following comments review points made in the Interview and in the prior Response.

U.S. Patent 5,643,195 to *Drevet et al.* and U.S. Patent 6,565,525 to *Burbank et al.* are reviewed in the foregoing Section 3 of this Response. U.S. Patent 6,379,340 to *Zinger et al.* then shows a valve allowing fluid drugs to be antiseptically withdrawn from a vessel (column 1 line 64 onward), wherein a port allows access by a needle or a cannula/tube, and a valve can be rotated to a position from which fluid can be withdrawn from the port, or to a position at which the valve does not allow fluid to transfer from the vessel to the port. Looking to FIGS. 2-3 as an example, drug may be dispensed from port 13, or from port 12 via insertion of a syringe 32 (column 4 lines 54-59). In FIG. 3, rotation of port 12 about the fluid conduit member 24 allows fluid drug from the interior of vial 28 to be directed to syringe 32 when port 12 and opening 14' are aligned with L-shaped passage 23/23', or to port 13 when port 13 and opening 16' are aligned with L-shaped passage 23/23' (column 5 line 4 onward). Also looking to FIG. 4, a semicircular passage 25 (shown adjacent opening 16' in FIG. 3) may be rotated between opening 16' and opening 14' to allow fluid to be transmitted between ports 12 and 13 (column 5 lines 17-25).

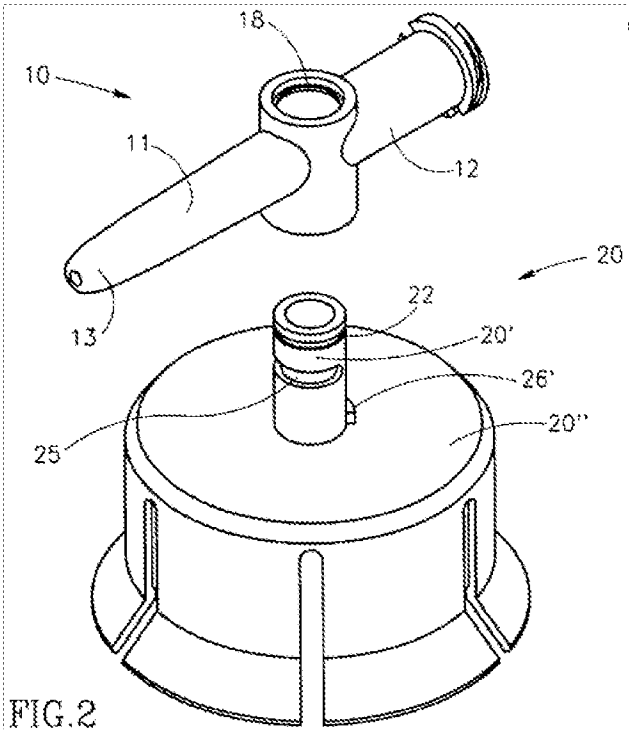

FIG.2

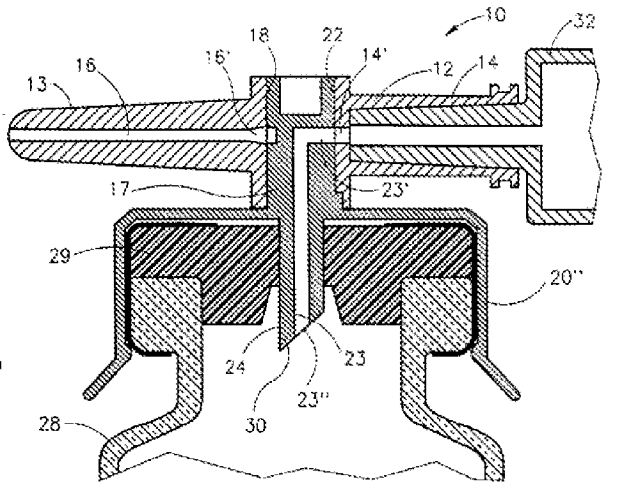

FIG.3

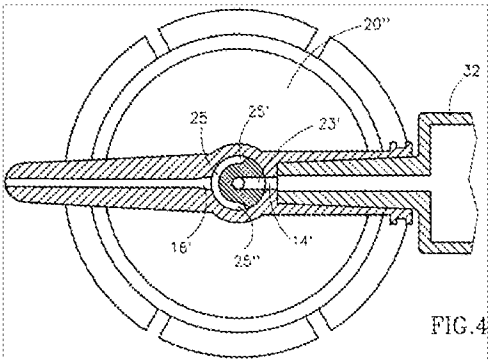

FIG.4

Firstly, if the claimed invention is placed out of mind and the cited references are reviewed in accordance with the aforementioned MPEP 2142 analysis, it cannot fairly be said that an ordinary artisan would contemplate or consider the claimed invention in view of *Zinger et al.*, particularly starting from *Drevet et al.* and *Burbank et al.* Considering that *Drevet et al.* and *Burbank et al.* operate on the basis of linear motion, and *Zinger et al.* is in essence little more than a rotating stopcock, it is simply not seen how one *could* incorporate features of *Zinger et al.* into the *Drevet / Burbank* combination, much less why one *would* truly and objectively consider doing so. Kindly consider: again placing the claimed invention out of mind to avoid hindsight, how does one adapt *Drevet* to accommodate the allegedly "equivalent" rotating arrangement of *Zinger*? Or, considered

differently, how could one having no knowledge of the invention truly devise a shunt having the characteristics of claims 72-75, *while also* having the recited features of parent claim 1?

Secondly, regarding the rejections' use of MPEP 2144.06 as their supporting rationale, it must be kept in mind that this section cautions:

> In order to rely on equivalence as a rationale supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents.

Here, the alleged equivalency is *not* recognized in the art, nor is *Zinger et al.* (nor U.S. Patent 5,540,668 to *Wilson et al.*, noted briefly in the rejection) truly a functional or mechanical equivalent to *Drevet et al.* (or *Burbank et al.*):

- *Drevet et al.* automatically "switches" flow between input and output ports on or off depending on differences between input and output pressure (and valve motion is linear).
- *Burbank et al.* manually "switches" flow between input and output ports on or off depending on the operator's preference, by the operator's insertion of needles (and valve motion is linear).
- *Zinger et al.* (and *Wilson et al.*) are basically rotational stopcocks which *manually* switch flow from an input *to different outputs* depending on the operator's preference, with valve motion being rotational.

This is not a matter of the simple substitution of one structure for an art-recognized equivalent. While the cited references all deal with valves, it should be apparent that not all valves are "equivalents," and here there are significant structural and functional differences such that one component / concept cannot readily be "swapped" for the other.[2] Thus, the rationale for the rejection is erroneous.

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[2] Furthermore, stepping back to the first point above, these differences are such that it simply cannot fairly be said that an ordinary artisan who did not know of the claimed invention would devise the claimed invention after review of *Zinger et al.*, *Drevet*, and *Burbank*: there is no apparent route whereby one could successfully combine the features of these inventions to attain the claimed invention.

In summary, since the invention cannot properly be deemed obvious in view of the MPEP 2144.06 rationale, and since it is not apparent how one even could (nor why one would) make the asserted combination, kindly withdraw the rejections of claims 72-75.

5. New Claims

New claims 78 and 81 further amplify the differences from *Drevet* discussed in Section 3 of this Response, and further enhance the novelty and unobviousness of claims 1 and 58.

New claims 79, 80, 82, and 83 recite further differences from *Drevet*, and are submitted to be unobvious because it is in no way apparent how one having no knowledge of the claimed invention would be led by the references of record to develop the matter of these claims.

6. In Closing

If any questions regarding the application arise, please contact the undersigned attorney. Telephone calls related to this application are welcomed and encouraged. The Commissioner is authorized to charge any fees or credit any overpayments relating to this application to deposit account number 18-2055.

ATTACHMENTS / ENCLOSURES:

- Pre-Interview Communication of December 18, 2009

For the Applicant,

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Craig Fieschko

From: Craig Fieschko
Sent: Friday, December 18, 2009 9:09 AM
To: 'philip.wiest@uspto.gov'
Subject: US Appln. 10/570,738 for CSF SHUNT [09820283]

Examiner Wiest – I'm the attorney of record for the above-noted case. We recently received a November 19, 2009 Final Office Action on the above-noted application, and we'd like to schedule an interview with you to discuss the Action. We think that the amendments and arguments in our last Response establish the unobviousness of the invention over the art of record, and the rejections seem erroneous to us. However, before going further, we'd like to better understand your position and verify we don't have communication errors: if we have a better understanding of your position (and you have a better understanding of ours), an appeal may be unnecessary.

Basically, the issues are as follows. If we look to your first point in your "Response to Arguments":

> [AT PAGE 7 OF OFFICE ACTION:] Applicant argues that the combination of Drevet with Burbank is improper. First, applicant argues that Burbank's manually activated valve is not compatible with the system of Drevet because Burbank's piston is manually activated. This argument has not been found persuasive because Drevet clearly teaches the use of a flexible member to activate in a vertical direction. If the piston of Drevet was replaced with Burbank's cutout piston, the device would still function in the same basic manner: once a sufficient pressure builds up in the first chamber, the flexible member would cause the cutout piston to move such that fluid communication is established between the first and second chambers. Even though Burbank's piston valve is activated manually, it still operates under the same basic principle of changes in vertical position. Pistons having cutouts therein to control fluid flow based on the position of the piston (such as that of Burbank) are well known in the art. It is the examiner's opinion that merely replacing the piston device of Drevet with a well known alternative fluid control means does not constitute a patentable improvement in the art.

This misstates the thrust of our argument. From page 12 of our Response:

> Independent claim 1 . . . . is submitted to be both novel and unobvious in view of the references of record, since it is not seen how these references could be used to devise a valve wherein the location of the piston is independent of the pressure on the downstream side of the valve. In Drevet et al., a major portion of the head of the piston 14 is exposed to the pressure in the downstream side 13 (see portion shown in fluid passageway 11 in FIG. 1 above – above the end of the lead line extending from reference number 11). As a result, the piston will plainly be affected by this pressure. This is evident from column 5 line 24 onward in Drevet et al., discussing the behavior of the shunt at various upstream and downstream pressures, in particular, discussing downstream side 13 pressures ranging between -300mm to about 0mm. Turning then to Burbank et al., the locations of pistons 114 and 116 are independent of the pressures on their downstream sides, but it does not seem possible to incorporate this feature into Drevet et al.. This is particularly true in view of the fact that Burbank et al. needs manual actuation – insertion of the needles – to actuate the pistons, and such a manual activation feature cannot reasonably be

> provided in a bodily fluid shunt such as Drevet et al.'s and still yield a practically usable shunt (since as a practical matter, a user/patient can hardly be expected to reliably manually actuate their shunt). In any event, it simply isn't seen how Drevet et al. could be adapted to have its piston act independently of downstream pressure. Since obviousness requires a reasonable expectation of success (MPEP 2143.02), and here it does not seem possible for an ordinarily skilled artisan to devise a way in which Drevet et al. can be modified to have its piston location be independent of the pressure on the downstream side of the valve, the invention of claim 1 cannot properly be deemed obvious.

Our point, stated simply, is as follows. If one follows the obviousness analysis mandated by MPEP 2142:

> To reach a proper determination under 35 U.S.C. 103, the examiner must step backward in time and into the shoes worn by the hypothetical "person of ordinary skill in the art" when the invention was unknown and just before it was made. In view of all factual information, the examiner must then make a determination whether the claimed invention "as a whole" would have been obvious at that time to that person. Knowledge of applicant's disclosure must be put aside in reaching this determination, yet kept in mind in order to determine the "differences," conduct the search and evaluate the "subject matter as a whole" of the invention. The tendency to resort to "hindsight" based upon applicant"s disclosure is often difficult to avoid due to the very nature of the examination process. However, impermissible hindsight must be avoided and the legal conclusion must be reached on the basis of the facts gleaned from the prior art.

We submit that if this process is followed, with the claimed invention being placed out of mind and *Drevet* and *Burbank* being objectively considered from the standpoint of an ordinary artisan, it simply cannot fairly be said that the ordinary artisan would contemplate or consider the claimed invention. How would one be able to modify *Drevet* to have the piston position independent of the pressure in the downstream passage side? Moreover, even if one could devise a way for this to work, why would one do so, given that *Drevet* claims to address the issue of downstream pressures affecting desired valve actuation (see column 5 line 56 onward, particularly to column 6 line 17)? Another relevant point – discussed in greater detail below – is that *Drevet* requires dependence on downstream pressure (in chamber 13) to attain the desired operation (see, e.g., column 5 line56 onward), so even if it was possible to modify *Drevet* to meet our claims, it seems unlikely that one would do so because this would be contrary to *Drevet*'s purposes. We'd like to run through your reasoning in combining *Drevet* and *Burbank*, and see if we're correctly understanding you. As for our reasoning, we emphasize that our arguments above do *not* state that "Burbank's manually activated valve is not compatible with the system of Drevet" simply "because Burbank's piston is manually activated." We do think that this is *one* reason why one would not contemplate combining *Drevet* and *Burbank*, but a more fundamental point is that it's in no way apparent how one could modify *Drevet* to have the piston position be independent of the pressure on the downstream passage side (and also why one would contemplate such a modification in view of *Drevet*'s suggestion at column 5 line 56 onward that this is not necessary, and also in view of *Drevet*'s need to operate on the basis of both upstream and downstream pressures).

Turning then to your next point:

> [AT PAGE 8 OF OFFICE ACTION:] Second, applicant argues that there is no motivation to modify Drevet's device with Burbank's piston cutout valve. This argument has not been found persuasive because Drevet clearly cites the need to eliminate the effect of downstream pressure in pressure-based flow control devices. Burbank's cutout piston provides an alternate means for selectively allowing flow through a medical fluid system wherein flow is strictly prevented when the piston is not in the activated position (i.e. the piston operates independently of fluid pressures and solely based on the activating means). Based on Drevet's desire to minimize the effects of fluid pressure directly on the piston, one of ordinary skill in the art at the time of invention would have expected a reasonable degree of success when replacing the piston of Drevet with Burbank's cutout

> piston arrangement, because doing so provides a means for ensuring that no flow occurs when the piston is not activated.

We're unsure which arguments of our Response that you're referring to here. Again, the key point of our argument is that one of ordinary skill who had no knowledge of our claimed invention, but who reviewed the art of record, can't fairly and objectively be said to conceive our claimed invention in view of *Drevet* and *Burbank*, particularly since it's in no way apparent how *Drevet* could modified to attain the claimed invention. Also, the assertion that *Drevet* "desire[s] to minimize the effects of fluid pressure directly on the piston" is incorrect (or unclear) – *Drevet* clearly wants fluid pressure to act on the piston; that's how *Drevet* operates. What *Drevet* really seeks is to have consistent operation despite the fact that the variation in fluid pressure on the upstream and downstream sides may vary significantly, e.g., when the patient is laying down, vs. sitting, vs. standing (see, e.g., column 2 lines 39-45, column 3 lines 3-13, column 5 line 48 onward). *Drevet* therefore needs a pressure difference between the opposing sides of its piston in order to operate; it simply takes account of the differences to provide the desired operation.

As for your final point:

> [AT PAGES 8-9 OF OFFICE ACTION:] Applicant also argues that there is no motivation to modify the Drevet and Burbank devices with Zinger's rotationally-oriented piston cutout valve. This argument has not been found persuasive. The use of cutout valves to selectively control fluid flow is well known in the art, and Zinger's flow control device uses the same type of valve, except that the piston is displaced rotationally instead of axially. The examiner concedes that there are basic mechanical differences that prevent one type of valve from being directly swapped with another. However, one of ordinary skill in the art at the time of invention would have recognized these axial and rotational cut out valve systems as art-recognized equivalents, and would have possessed the capacity to rearrange the device of Drevet so that a rotational cutout valve can be used.

Please review our arguments in our Response. We did not merely argue that "there is no motivation" for the combination; we also argued that (1) it is again not apparent how one even could incorporate *Zinger et al.*'a principles into *Drevet / Burbank*, and (2) *Zinger et al.* is not in fact an "art-recognized equivalent" of *Drevet* (as required by MPEP 2144.06, which was invoked in the rejection), particularly insofar as *Drevet* is a valve which automatically opens and closes flow from an input to an output depending on differences between input and output pressure, and *Zinger et al.* is a rotational stopcock which manually switches flow from an input to different outputs depending on the operator's preference. *Drevet* and *Zinger* are certainly both valves, but there's no true "art-recognized equivalence" in the context of these inventions, and we don't understand how one could incorporate *Zinger et al.*'s principles into *Drevet / Burbank*.

In summary, it would help immensely if you could run us through the MPEP 2142 process and explain how, in your view, an ordinary artisan who had no knowledge of our claimed invention would conceive the claimed invention after consideration of the art of record. If we have a better understanding of your reasoning, this might help us (and therefore you) to more rapidly resolve this case.

I'll be giving you a call to see if we can schedule an interview, but if you have a spare moment to check your schedule and you wish to call me first, please do so. Since I'll be out of my office for much of the next couple of weeks, it would be helpful if we could schedule something on or after January 4. Regards,

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